

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File No.: EB-SED-13-00005853
UNS Electric, Inc.,	)	
an indirect, wholly-owned subsidiary of UNS	)	NAL/Acct. No.: 201432100003
Energy Corporation	)	FRN: 0008825606
	)	

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Adopted: November 22, 2013**

**Released: November 22, 2013**

By the Deputy Chief, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (NAL), we find UNS Electric, Inc. (UNS Electric),<sup>1</sup> former licensee of Private Land Mobile Radio Service (PLMRS) station KNNR214, Tucson, Arizona, apparently liable for a forfeiture in the amount of twenty-five thousand dollars (\$25,000) for its apparent willful and repeated violation of Section 301 of the Communications Act of 1934, as amended (Act),<sup>2</sup> Section 1.903(a) of the Commission's rules (Rules),<sup>3</sup> and the associated Commission orders requiring licensees to seek authority for any continued operations after license expiration.<sup>4</sup> The apparent violations involve UNS Electric's operation of PLMRS station KNNR214 for 19 months without Commission authority and its associated failure to timely file an application for authority to continue operation of the station.

**II. BACKGROUND**

2. On February 27, 2001, UNS Electric was granted a license to operate station KNNR214 for ten years through May 1, 2011, the expiration date of the station's license.<sup>5</sup> On February 7, 2011, the Commission's Wireless Telecommunications Bureau (Wireless Bureau) sent UNS Electric a courtesy "renewal reminder" notice for station KNNR214, alerting UNS Electric that it was required to file a renewal application for the station prior to the expiration of the station's license if it planned to continue

<sup>1</sup> UNS Electric, an indirect wholly-owned subsidiary of UNS Energy Corporation, is a public utility that generates, transmits, and distributes electricity to customers in Mohave and Santa Cruz Counties in Arizona.

<sup>2</sup> 47 U.S.C. § 301.

<sup>3</sup> 47 C.F.R. § 1.903(a).

<sup>4</sup> See *Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services*, 13 FCC Rcd 21027, 21071, para. 96 (1998) (*Universal Licensing System Report and Order*) (adopting inter alia Section 1.949 of the Rules); Memorandum Opinion and Order on Reconsideration, 14 FCC Rcd 11476, 11485–86, para. 22 (1999) (*Universal Licensing System MO&O*) (collectively, *Universal Licensing System Orders*).

<sup>5</sup> See <http://wireless2.fcc.gov/UlsApp/UlsSearch/license.jsp?licKey=1579801>.

operation.<sup>6</sup> UNS Electric failed to file a renewal application for station KNNR214 prior to the license expiration date. In the absence of such filing, UNS Electric's license for station KNNR214 automatically terminated on the May 1, 2011 expiration date.<sup>7</sup> Nineteen months later, on November 30, 2012, UNS Electric filed with the Wireless Bureau a request for Special Temporary Authority (STA) to operate a PLMRS station, stating that it had recently discovered that its license for station KNNR214 had expired and that the STA was necessary for the safe and efficient provision of electric power service to the public.<sup>8</sup> On December 4, 2012, the Wireless Bureau granted the STA until June 2, 2013, under call sign WQQG373.<sup>9</sup> On December 6, 2012, UNS Electric filed an application for a new PLMRS station license, which was granted on April 3, 2013.<sup>10</sup>

3. Because it appeared that UNS Electric operated station KNNR214 after the expiration of the station license, the Wireless Bureau referred this matter to the Enforcement Bureau (Bureau) for investigation and possible enforcement action. On April 15, 2013, the Bureau's Spectrum Enforcement Division issued a letter of inquiry (LOI) to UNS Electric, directing the company to submit a sworn written response to a series of questions relating to UNS Electric's failure to file an application for renewal of the KNNR214 license and UNS Electric's continued operation of the station after the expiration of the station license.<sup>11</sup>

4. UNS Electric responded to the LOI on May 10, 2013.<sup>12</sup> In its LOI Response, UNS Electric acknowledged that it continued to operate the station "on a more or less daily basis" after the expiration of the station license on May 1, 2011, until December 4, 2012, the date its STA request was granted.<sup>13</sup> UNS Electric explains that it discovered that the KNNR214 station license had not been renewed on September 24, 2012, when a field crew conducting a site inspection noted that the posted copy of the station license had expired.<sup>14</sup> UNS Electric states that internal company records indicated that the KNNR214 license had been renewed, and that UNS Electric believes that a former employee responsible for tracking the company's FCC licenses marked internal records to show the renewal had been filed prior to unexpectedly leaving the company.

### III. DISCUSSION

5. Section 301 of the Act and Section 1.903(a) of the Rules prohibit the use or operation of any apparatus for the transmission of energy or communications or signals by radio except under, and in

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<sup>6</sup> See Automated Renewal Reminder Letter from the FCC Wireless Telecommunications Bureau to UNS Electric, Inc., Reference No. 5106784 (Feb. 7, 2011).

<sup>7</sup> See 47 C.F.R. § 1.955(a)(1) (stating that "[a]uthorizations automatically terminate, without specific Commission action, on the expiration date specified therein, unless a timely application for renewal is filed.>").

<sup>8</sup> See File No. 0005526143.

<sup>9</sup> The Wireless Bureau granted the STA without prejudice to any enforcement action related to the unauthorized operation of station KNNR214. See *id.*

<sup>10</sup> See File No. 0005536293.

<sup>11</sup> See Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Jeffrey L. Sheldon, Esq., Levine, Blaszak, Block & Boothby, LLP, Counsel to UNS Electric, Inc. (April 15, 2013) (on file in EB-SED-13-00005853).

<sup>12</sup> See Letter from Kimberly A. Ruht, Regulatory Attorney, UNS Electric, Inc., to Jennifer Burton, Spectrum Enforcement Division, FCC Enforcement Bureau (May 10, 2013) (LOI Response) (on file in EB-SED-13-00005853).

<sup>13</sup> See *id.* at 3.

<sup>14</sup> See *id.*

accordance with, a Commission-granted authorization.<sup>15</sup> Licensees who want to operate after the expiration of their licenses must affirmatively request continued operating authority from the Commission. Section 1.949(a) of the Rules and the *Universal Licensing System Orders* mandate the filing of certain applications to obtain such authority.<sup>16</sup>

6. As a Commission licensee, UNS Electric was required to maintain its authorizations in order to continue to operate station KNNR214.<sup>17</sup> UNS Electric admitted that it failed to renew its license for station KNNR214, and that it continued to operate the station without Commission authority for 19 months, from May 1, 2011, the date that the license for station KNNR214 expired, until December 4, 2012, the date that UNS Electric's STA request was granted. By operating station KNNR214 after the license expiration date, UNS Electric apparently violated Section 301 of the Act and Section 1.903(a) of the Rules, and by failing to seek Commission authority for its continued operation of station KNNR214, UNS Electric apparently violated the *Universal Licensing System Orders* and associated rules.

7. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation, or order issued by the Commission thereunder, shall be liable for a forfeiture penalty.<sup>18</sup> Section 312(f)(1) of the Act defines "willful" as the "conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate" the law.<sup>19</sup> The legislative history to Section 312(f)(1) of the Act clarifies that this definition of willful applies to both Sections 312 and 503(b) of the Act,<sup>20</sup> and the Commission has so interpreted the term in the Section

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<sup>15</sup> 47 U.S.C. § 301; 47 C.F.R. § 1.903(a).

<sup>16</sup> Specifically, Section 1.949(a) of the Rules requires that licensees wishing to continue operations file renewal applications for wireless radio stations "no later than the expiration date of the authorization for which renewal is sought, and no sooner than 90 days prior to expiration." 47 C.F.R. § 1.949(a). If a licensee intending to continue operating fails to file a timely renewal application, the Commission nevertheless requires such licensee to seek operating authority. See *Universal Licensing System Report and Order*, 13 FCC Rcd at 21071, para. 98 (directing licensees that fail to file timely renewal applications to submit a new application or, if necessary, a request for special temporary operating authority); *Universal Licensing System MO&O*, 14 FCC Rcd at 11485–86, para. 22 (permitting, in the alternative, the acceptance and processing of late filed renewal applications under certain circumstances). In the *Universal Licensing System MO&O*, the Commission expressly held that it could "initiate enforcement action against the licensee both for untimely filing and unauthorized operation between the expiration of the license and the late renewal filing, including, if appropriate, the imposition of fines or forfeitures for these rule violations." *Id.*

<sup>17</sup> As noted above, the *Universal Licensing System Orders* and Commission precedent make clear that if a licensee continues to operate, it has an ongoing duty to seek Commission authority for such operations. See *supra* note 16. See also *Discussion Radio, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 7433 (2004); *Telrite*, Notice of Apparent Liability for Forfeiture and Order, 23 FCC Rcd 7231, 7244, para. 30 (2008); *Compass Global, Inc.*, Notice of Apparent Liability for Forfeiture, 23 FCC Rcd 6125, 6138, para. 29 (2008); *VCI Company*, Notice of Apparent Liability for Forfeiture and Order, 22 FCC Rcd 15933, 15940, para. 20 (2007). We note that a failure to seek timely operating authority inhibits the Commission's ability to fulfill its statutory obligations under Sections 301 (maintaining control of radio transmission and use of such channels for limited periods of time), 303 (assigning frequencies), and 307 of the Act (ensuring the fair, efficient and equitable distribution of radio service).

<sup>18</sup> 47 U.S.C. § 503(b).

<sup>19</sup> 47 U.S.C. § 312(f)(1).

<sup>20</sup> H.R. Rep. No. 97-765, 97<sup>th</sup> Cong. 2d Sess. 51 (1982) ("This provision [inserted in Section 312] defines the terms 'willful' and 'repeated' for purposes of section 312, and for any other relevant section of the act (e.g., Section 503) . . . . As defined[,] . . . 'willful' means that the licensee knew that he was doing the act in question, regardless of whether there was an intent to violate the law. 'Repeated' means more than once, or where the act is continuous, for (continued....)

503(b) context.<sup>21</sup> The Commission may also assess a forfeiture for violations that are merely repeated, and not willful.<sup>22</sup> The term “repeated” means the commission or omission of such act more than once or for more than one day.<sup>23</sup> Based on the record before us, UNS Electric’s apparent violations of Section 301 of the Act, Section 1.903(a) of the Rules, and the *Universal Licensing System Orders* and associated rules are both willful and repeated.

8. In determining the appropriate forfeiture amount, Section 503(b)(2)(E) of the Act directs us to consider factors such as “the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.”<sup>24</sup> Section 1.80(b) of the Rules sets a base forfeiture amount of \$10,000 for operation of a station without Commission authority and a base forfeiture amount of \$3,000 for failure to file required forms or information.<sup>25</sup> The Commission has held that a licensee’s continued operation without authorization and its failure to timely seek Commission authority for such operations constitute separate violations and warrant the assessment of separate forfeitures.<sup>26</sup> We note that UNS Electric failed to file either a timely renewal or any other application seeking operating authority. Accordingly, we herein propose separate base forfeiture amounts for UNS Electric’s apparent violations—\$10,000 for UNS Electric’s continued operation of station KNNR214 after license expiration and \$3,000 for UNS Electric’s failure to seek Commission authority for station KNNR214, for a total base forfeiture of \$13,000.

9. Given the totality of the circumstances, and consistent with the *Forfeiture Policy Statement*, we conclude that a significant upward adjustment of the base forfeiture is warranted. In this regard, we recognize that UNS Energy Corporation (UNS Energy)—UNS Electric’s parent company—is a substantial enterprise.<sup>27</sup> The Commission has determined that large or highly-profitable companies such

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more than one day. Whether an act is considered to be ‘continuous’ would depend upon the circumstances in each case. The definitions are intended primarily to clarify the language in Sections 312 and 503, and are consistent with the Commission’s application of those terms . . .”).

<sup>21</sup> See, e.g., *S. Cal. Broad. Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991) (*Southern California*), *recons. denied*, 7 FCC Rcd 3454 (1992).

<sup>22</sup> See, e.g., *Callais Cablevision, Inc.*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359, 1362, para. 10 (2001) (*Callais Cablevision, Inc.*) (proposing a forfeiture for, *inter alia*, a cable television operator’s repeated signal leakage).

<sup>23</sup> Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that “[t]he term ‘repeated’, when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.” See *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362.

<sup>24</sup> 47 U.S.C. § 503(b)(2)(E). See also 47 C.F.R. § 1.80(b)(8); *Forfeiture Policy Statement*, Report and Order, 12 FCC Rcd 17087, 17100, para. 27 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

<sup>25</sup> 47 C.F.R. § 1.80(b). See also *Forfeiture Policy Statement*, 12 FCC Rcd at 17098-99, para. 22 (noting that “[a]lthough we have adopted the base forfeiture amounts as guidelines to provide a measure of predictability to the forfeiture process, we retain our discretion to depart from the guidelines and issue forfeitures on a case-by-case basis, under our general forfeiture authority contained in Section 503 of the Act”).

<sup>26</sup> See *supra* note 16. See also Discussion Radio, 19 FCC Rcd at 7438, para. 15; *Union Oil Co. of Cal.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 13806, 13809-810, para. 9 (2012) (*Union Oil*).

<sup>27</sup> UNS Energy’s 2012 annual report filed with the Securities and Exchange Commission reported gross revenues of \$1.4 billion. See UNS Energy Corporation (2012), Annual Report, at K-32 (Feb. 27, 2013).

as UNS Energy should expect the assessment of higher forfeitures.<sup>28</sup> Also, we are particularly mindful that UNS Electric's apparent unlawful operation continued for 19 months—from May 1, 2011, the date that the license for station KNNR214 expired, until December 4, 2012, the date that UNS Electric's STA request was granted. Consistent with Section 301 of the Act, and as explained above, licensees who find themselves out of compliance with the licensing requirements should immediately cease unauthorized operation and seek temporary operating authority before continuing to operate.

10. We also decline to downwardly adjust the forfeiture on the grounds that the violations resulted from a lack of knowledge of the expired license or a change in personnel.<sup>29</sup> As the Commission has emphasized, “[a]ll licensees are responsible for knowing the terms of their licenses and for filing a timely renewal application if they seek to operate beyond that term.”<sup>30</sup> It is well established that administrative oversight or inadvertence is not a mitigating factor.<sup>31</sup> UNS further asserts it has a history of compliance with the Commission's rules.<sup>32</sup> We disagree. As noted above, UNS Electric's unauthorized operation continued for an extended period of time, and even after becoming aware of the expiration of the station license and notwithstanding the significant resources at its disposal, the company

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<sup>28</sup> It is well established Commission policy to consider the revenues of a violator's parent company in determining the violator's ability to pay. See, e.g., *SM Radio, Inc.*, Order on Review, 23 FCC Rcd 2429, 2433, para. 12 (2008) (citations omitted); *Tesla Exploration, Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 9808, 9811, para. 10 & n.20 (2012); *Union Oil*, 27 FCC Rcd at 13810, para. 10. See also *Forfeiture Policy Statement*, 12 FCC Rcd at 17099-100, paras. 23-24 (cautioning all entities and individuals that, independent from the uniform base forfeiture amounts, the Commission will take into account the violator's ability to pay in determining the amount of a forfeiture to guarantee that forfeitures issued against large or highly profitable entities are not considered merely an affordable cost of doing business, and noting that such large or highly profitable entities should expect that the forfeiture amount set out in a Notice of Apparent Liability for Forfeiture against them may in many cases be above, or even well above, the relevant base amount). See also *Am. Movil, S.A.B. de C.V., Parent of Puerto Rico Tel. Co., Inc.*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 8672 (Enf. Bur. 2011) (doubling the base forfeiture due to the company's size and gross revenues); *Fox Television Stations Inc.*, Notice of Apparent Liability for Forfeiture, 25 FCC Rcd 7074 (Enf. Bur. 2010) (upwardly adjusting the base forfeiture based on the egregiousness of the violation and the company's substantial revenues); *Google Inc.*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd 4012 (Enf. Bur. 2012) (upwardly adjusting the base forfeiture due to the deliberate nature of the violation and the company's gross revenues).

<sup>29</sup> See LOI Response at 2–3.

<sup>30</sup> *Universal Licensing Report and Order*, 13 FCC Rcd at 21071, para 96; see 47 C.F.R. § 1.949(a).

<sup>31</sup> See *Southern California*, 6 FCC Rcd at 4387, para. 3 (stating that “‘inadvertence’ . . . is at best, ignorance of the law, which the Commission does not consider a mitigating circumstance”). See also *Emigrant Storage*, Notice of Apparent Liability for Forfeiture, 27 FCC Rcd at 8920–21, para. 9 (claiming that it failed to renew the license for PLMRS station WPKM212 and stating that the violation resulted from oversight and a change in personnel); *Profit Enters., Inc.*, Forfeiture Order, 8 FCC Rcd 2846, 2846, para. 5 (1993) (denying the mitigation claim of a manufacturer/distributor who thought that the equipment certification and marketing requirements were inapplicable, stating that its “prior knowledge or understanding of the law is unnecessary to a determination of whether a violation existed . . . ignorance of the law [is not] a mitigating factor”); *Lakewood Broad. Serv., Inc.*, Memorandum Opinion and Order, 37 FCC 2d 437, 438, para. 6 (1972) (denying a mitigation claim of a broadcast licensee who asserted an unfamiliarity with the station identification requirements, stating that licensees are expected “to know and conform their conduct to the requirements of our Rules”); *Kenneth Paul Harris, Sr.*, Notice of Apparent Liability for Forfeiture, 15 FCC Rcd 12933, 12935-36, para. 7 (Enf. Bur. 2000) (denying a mitigation claim of a broadcast licensee, stating that its ignorance of the law did not excuse the unauthorized transfer of the station); *Maxwell Broad. Group, Inc.*, Memorandum Opinion and Order, 8 FCC Rcd 784, 784, para. 2 (Mass Med. Bur. 1993) (denying a mitigation claim of a noncommercial broadcast licensee, stating that the excuse of “inadvertent[ce], due to inexperience and ignorance of the rules . . . are not reasons to mitigate a forfeiture” for violation of the advertisement restrictions).

<sup>32</sup> See LOI Response at 3.

continued to operate without authority for more than two months before seeking Commission approval.<sup>33</sup> This additional period of noncompliance followed a courtesy renewal reminder from the Wireless Bureau. Accordingly, we also decline to downwardly adjust the forfeiture on this basis. Based on all the factors and evidence, including UNS Electric's ability to pay and the extended duration of the violation, we propose an aggregate forfeiture of \$25,000.

#### IV. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended,<sup>34</sup> and Sections 0.111, 0.311, and 1.80 of the Commission's rules,<sup>35</sup> UNS Electric, Inc. **IS** hereby **NOTIFIED** of its **APPARENT LIABILITY FOR A FORFEITURE** in the amount of twenty-five thousand dollars (\$25,000) for willful and repeated violation of Section 301 of the Communications Act of 1934, as amended,<sup>36</sup> Section 1.903(a) of the Commission's rules,<sup>37</sup> and the *Universal Licensing System Orders* and associated rules.<sup>38</sup>

12. **IT IS FURTHER ORDERED** that, pursuant to Section 1.80 of the Commission's rules,<sup>39</sup> within thirty (30) days of the release date of this Notice of Apparent Liability for Forfeiture, UNS Electric, Inc. **SHALL PAY** the full amount of the proposed forfeiture or **SHALL FILE** a written statement seeking reduction or cancellation of the proposed forfeiture consistent with paragraph 15 below.

13. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. UNS Electric, Inc. shall send electronic notification of payment to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov, Jennifer Burton at Jennifer.Burton.gov, and Samantha Peoples at Sam.Peoples@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>40</sup> When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that UNS Electric, Inc. should follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

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<sup>33</sup> *See id.* UNS Electric asserts that it filed its STA request after verifying through frequency coordination and consultation with the 800 MHz Transition Administrator that its previously authorized frequencies were still available. *See id.* We note that under the circumstances at issue here, the relevant rules do not mandate frequency coordination prior to filing an STA request, and such coordination does not authorize operation on the specified frequencies. We emphasize that UNS Electric should not have waited until it consulted with its frequency coordinator before applying for temporary operating authority.

<sup>34</sup> 47 U.S.C. § 503(b).

<sup>35</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

<sup>36</sup> 47 U.S.C. § 301.

<sup>37</sup> 47 C.F.R. § 1.903(a).

<sup>38</sup> *See supra* notes 4 and 16.

<sup>39</sup> 47 C.F.R. § 1.80.

<sup>40</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

14. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, DC 20554. If UNS Electric, Inc. has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

15. The written statement seeking reduction or cancellation of the proposed forfeiture, if any, must include a detailed factual statement supported by appropriate documentation and affidavits pursuant to Sections 1.80(f)(3) and 1.16 of the Commission's rules.<sup>41</sup> The written statement must be mailed to the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, DC 20554, ATTN: Enforcement Bureau – Spectrum Enforcement Division, and must include the NAL/Account Number referenced in the caption. The statement must also be emailed to JoAnn Lucanik at [JoAnn.Lucanik@fcc.gov](mailto:JoAnn.Lucanik@fcc.gov) and to Jennifer Burton at [Jennifer.Burton@fcc.gov](mailto:Jennifer.Burton@fcc.gov). The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices; or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation.

16. **IT IS FURTHER ORDERED** that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by first class mail and certified mail, return receipt requested, to David G. Hutchens, President, UNS Electric, Inc., 88 East Broadway Blvd., Tucson, AZ 85702.

FEDERAL COMMUNICATIONS COMMISSION

Robert H. Ratcliffe  
Deputy Chief, Enforcement Bureau

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<sup>41</sup> 47 C.F.R. §§ 1.80(f)(3), 1.16.